

# QIKJS-Part.I.E

## Qualitative Inquiry of Korean Judicial System

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### The Elements of Public Policy and the Judicial System of Korea

#### Problem Statement

Given that the studies of public policy turned to be more scientific across the types of public organization, such elaboration comes far scarce when we are involved with the administrative aspect of national judiciary. That is particularly true when we fall with the experience of new born republics after the World War II, including South Korea (Han, 2014). They often were hurried to create the western style of judicial system to respond with the inauguration of new republic as a state. The judicial system is considered important and typical which is responsible for one branch of constitutional powers, what we see adjudicative, and the organizational goal is constitutionally defined on the basis of judicial independence and separation of powers principle (Lee, 2013; Lee, 2011; Kim, 2013). The judiciary is the last branch of limited resource in terms of policy perspective, which leads to some extent of subjection to the political branches when the terms come with the public administration narrative. Nevertheless, evidence strongly vindicates that the literature to deal with the issues is mostly on the structural perspective and democratic ethos or consequent lack of political legitimacy, which is sensational and limited lacking the disciplinary standard of scientific frame and analysis (Kim, 2009; Han, 2014). The documental discrepancies along the intense public disagreement or argument about the agendas and issues of PAKJS (Public Administration of the Korean Judicial System) can simply be evidenced with the public data and Korean sources of literature. Evidence also convince us that the view -- maturity of Korean republic, is tenable in terms of national legacy -- historical lesson and success of democratic movement as well as dominance of pluralistic values in Korean community -- that the gap in knowledge had to be bridged in terms of policy discourse. (Yang, 2013; Hwang, 2012).

The problem of public disagreement, inconsistencies of policy making as well as the desultory discourse of PAKJS varying with the successive administrations and public opinions are truly an authentic puzzle that should be resolved with a cohesive account on the elements I plan to develop with the GT approach. In short, The policy makers on the field and scholarly literature about the PAKJS deal with the topic making a focus on the utility and practical points of strengths and weaknesses, which have not researched or under-researched

the common or distinct element of phenomenology inherent in the PAKJS.<sup>1</sup> This generate an important knowledge gap, current version of dissidence, and unproductive and resilient progress of agendas and programs, as well as create a contending public response of many already implemented policies for the transformation or reform of judicial system.

### **The Purpose of Study**

The purpose of this study, therefore, is intended (i) to provide a cohesive view of the phenomenology of PAKJS on the elements and thoughts of philosophy and public policy<sup>2</sup> (ii) to explain the process, action and interaction of subsystem and delineate the distinct characteristics inherent in PAKJS (iii) to provide a focused and thematic view as element of philosophy and public policy along the selective deals of major events and issues. Interviews and focus groups will be held with congressmen, public officers, judges, prosecutors, attorneys, law professors, and civil activists relating with the policy making of Korean judicial system and in order to gather data relevant to fulfilling the purpose of the study.

The studies will provide a phenotype, in terms of philosophies and bureaucratic tradition that has occurred over the history of Korean judicial system and constitutional democracy (Downs & Mohr, 1976).<sup>3</sup> Provided that the studies will employ the grounded theory approach, it is less meaningful to situate the research work within any definitive theoretical frameworks. Nevertheless, I will be indebted to the intellectual heritage through the preliminary exposure to philosophies and theories, such as PET and DOI, which allows the perspective and basic ideas of public administration as well as lens of constant comparison with the western paradigm of understanding involved with the disciplinary goals of PPA (Patton, 2002).<sup>4</sup> Since the study seeks to systemically develop a theory that explains process, action, or interaction on the topic of PAKJS,<sup>5</sup> the research project will take place

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<sup>1</sup> Therefore, the open coding can orient the focus of studies, such aspect as to reveal the national particulars and common elements within the trajectory of KJS beyond the agenda and issue specific focus of current literature.

<sup>2</sup> The researcher needs to hold a care so that the deals should not be bloated or miniscule. This misfeasance often would arise from the mistake as averted from the theme and focus than the extended time span of research coverage.

<sup>3</sup> In this scope of definition on the extent of focus, the PAKJS encompasses a wide scope of policy arena including the constitutional reform beyond the reform of statute, regulation and executive order. It also does not rule out, in its scope of dealings, the analysis of informal or organizational sphere of actors and interest or stake holders. Therefore, the subject scope of PAKJS complies with the largest extent of policy studies, which, however, is not unusual with the routine attitudes or ways of approach of scholars in this discipline.

<sup>4</sup> The grounded theory researcher has an ultimate goal to generate a theory that the primary form of data collection often would be an interviewing in which the research is constantly comparing data gleaned from participants with ideas about the merging theory.

<sup>5</sup> According to Creswell, the GT researcher begins independently from and as unaffected with the mainstream of knowledge, and the data analysis will be exhaustive and reiterative through the collected data. The open coding will yield one category of the focus of theory, and axial coding will enable to form a theoretical model.

basically in Korea, in which the participants will be drawn from Seoul and partly from Gwang-ju, the city of my workplace. The data also would be extensive to saturate the maxim, “nothing to be left unlearned,” which increases the credibility and trustworthiness. The guide is borne through the research project that rigor is a final standard to contest the validity in the qualitative research. The data types would be (i) archival from the institutions, such as NAK, Ministry of Justice, Blue House, Supreme Court and Administrative Bureau, and civil activists, as well as the public documentation and record of public forums and conferences (ii) interview results from the 30 participants among the generations and different roles.

### Research Questions and Alignment

The research questions to address my topic are comprised of three overarching questions and four sub-questions under the third question, such that are considered to be a beacon to illuminate the phenomenology of PAKJS. Since my studies is intended to generate a theory of PAKJS, the research questions are required to compass comprehensively the elements of public policy, major events and occurrences and scholarly analysis with the empirical data through the processes, actions and interactions of subsystem within the higher structure of constitution and public laws (Brause, 1999b). The three areas of conceptual framework used in the studies have been with the capital letters beside each research question.

First, how do we properly understand the common and different strands over the three major periods of PAKJS? **POLITICS AND ENVIRONMENTAL SYSTEM**

Second, how are the major phenomena or events in each period developed in terms of public policy elements? **SUBSYSTEM/AGENDA SETTING/POLICY DIFFUSION**

Third, how do we understand the phenotype and meaning of PAKJS in view of the social science perspectives? **PHENOMENOLOGY AND THEMES**

In view of political history, culture and morality?

In view of socio-economic history and status?

In view of comparative judicial system?

In view of types of public organization?

*Table Alignment*

Three Areas of Conceptual Framework	Mind Map to Generate a Theory	Substance
<b>POLITICS AND ENVIRONMENTAL SYSTEM</b>	<ol style="list-style-type: none"> <li>1. “Fanatic with Chaos” Period? (1945-1948)</li> <li>2. Decent or Uncultivated? (1949-1961)</li> <li>3. Dead or Dormant? (1962-</li> </ol>	<ul style="list-style-type: none"> <li>● Three Coding Strategies from the GT Approach</li> <li>● Public Documentation and Record/Survey and Interview Data from the</li> </ul>

The selective coding could delineate the intersection of the categories what we call a theory.

SUBSYSTEM/AGENDA SETTING/POLICY DIFFUSION	1987) 4. “Liberal with Contention and Inexperience” (1988- Present) Period?	Legal Historians, Senior and Junior Attorneys, Law Professors and Civic Leadership
	1. Actors within the Formal and Informal Policy Process 2. National Politics with the Judicial Agenda Setting 3. Assessment of Policy Diffusion	<ul style="list-style-type: none"> <li>● Three Coding Strategies from the GT Approach</li> <li>● Public Documentation and Record/Survey and Interview Data from the Senior and Junior Attorneys, Law Professors and Civic Leadership</li> </ul>
PHENOMENOLOGY AND THEMES	Phenotype and Meaning of Korean Case within the Broad Context	<ul style="list-style-type: none"> <li>● Three Coding Strategies from the GT Approach</li> <li>● Findings with Identification of the Pattern and Theme.</li> </ul>

### Learning and Reflections

For the purpose of this posting, I have referred to the general guide of research design, and specifically sought an insight from two past Walden dissertations (Laureate Education, 2010a). In terms of cohesive account for the research theme, we generally agree that the research design is so cardinal that would be a basis and pillar, on which the researcher constantly mind and resort to complete the rest of dissertation work. The research design provides the structure of dissertation in terms of content and process and plays an introductory role for the audience (O’Sullivan, Rassel & Berner, 2008; Rudestam & Newton, 2015). The supervisor or audience may go with a pique if the researcher would be less carefully or incompetently designed leading to the ambiguous or confusing chapters of research design. The research design generally comprises the logical flows beginning with the problem statement, literature review, purpose of study through the research questions and methodology (Kim, 2015a,b,c,d,e). In my experience, the chapters also came with kinder researchers that the significance of study, background of study, conceptual or theoretical framework, scope of study, assumptions and limitations or ethical problems are independently sectioned to illuminate the basics of dissertation for the convenience of readership. In some cases, the formality may be eye-catching with a new mode of educational engineering that the traditional deals largely are broken. In other cases, the methodology and philosophy sections are extensively projected over two thirds of whole pages. Generally, however, the dissertation research includes the typical elements that prove the years of doctoral studies. That would be in a practical point of comparison that the considerable number of articles by established professionals may save the method section not appearing within his or her publication. Importantly, these elements of research design need to be aligned cohesively to provide a preliminary grasp or expectation for the audience envisioning the intent and method of researcher as well as enabling a guess of contents or surprise of new findings through the conclusion and suggestion.

The research questions are the kind of house -- of course, if changeable with the research process -- to which the researcher constantly resort and ultimately needs of reflection if he successfully solves them (Rudestam & Newton, 2015). This would be a starting point of

research that is also ending destination with a solution. The punditocracy is not always compatible to describe the scholarly work or community since the researcher would also be scientific and evidence based. Nevertheless, the devising of research questions would be testable in terms of ascetics and enlightening word magic. The adequate compass and scholarly pinpointing would be a very required quality of phrasing the research questions. The qualitative research questions generally require (i) being open and probative and reflecting the intent of study (ii) asking how or why events occur, or what are the perceptions and experiences of participants (iii) being exploratory in nature and designed to generate hypotheses that could be tested later in quantitative studies (Simon, 2011a). According to Walden guide, the researchers need to check 11 points with their research questions.<sup>6</sup> There are also some tips as a characteristic of good research questions. For example, they should be well grounded in current theoretical and empirical knowledge and the answer should be important in terms of theory and application. Six types of research questions are usual (i) existence (ii) description and classification (iii) relationship (iv) casualty-comparative (v) casualty-comparative interaction (2011a).

Since my studies is qualitative in nature, my search for reference was available with the previous class of qualitative method, in which I found tow sample dissertations (Walden University Library, 2015). One is a sample relating with the narrative inquiries and the other is grounded theory approach. The first piece is entitled, “A narrative inquiry into the experience of individuals in the midst of organizational change (2015).” The study explores how the individuals understand and make a meaning of their experiences while in the midst of radical organizational change. The author used a three dimensional narrative-inquiry-space framework, and stories and metaphors were used as an expression of experience. The author argued that it is necessary for the scholars and practitioners to shift “from systems to stories,” to say in other words, *either-or* to the genius of the *and*. Interestingly, the author stressed that narrative inquiry is well aligned with promoting the cognitive genius of the *and* as a strategic tradition of inquiry. While seeing the components of research design are well aligned, I learned that the understanding and meaning of the participants’ experience are typically focused as a main attribute of qualitative method. The method is also related with the post-modernist approach that often characterizes as a prevailing lens of analysis on the modern livings and phenomenology, which could allow an excavation of new knowledge from the field and directly with the participants (Web Center for Social Research Methods, 2015). In this case, the story is the reality of general or distinct populace and convivial – often a point of contention for the social scientists involving a methodology, while the system represents a mainstream of thinking as the author implies between those two. On this continuum, the two research questions were devised “in an attempt to understand the interconnectedness between system integration and social integration and the experiences of individuals within the context of radical organizational change. Since my research would deal with the soft nature of inquiry - - stories as similar with this piece -- within the structure of constitution and public law, his approach had fairly been interesting.

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<sup>6</sup> For example, the researcher needs to consider if the research questions are precise and concise. In other words, they check if there are unnecessary words. They also are manageable, logically related with the problem statement, broad enough to guide the entire study, and etc.

The second piece of dissertation is entitled “Professional development strategies for teaching urban biology teachers to use concepts maps effectively (Walden University Library, 2015).” The author used a GT approach that eventually purported to generate a “model to help professional developers design effective professional development for urban biology teachers.” In the purpose of study, the author stated, “the model is based upon the results of the process of data collection and analysis, which led to a substantive theory that arose out of studying the real world experiences of experienced urban professional developers and teachers.” While the logical flows through the components of research design are good, it is advised that the data collection and analysis would be a key to investigate the questions empirically and base his creation of a theory. One interesting approach is that the author expressly aligned the source of empirical data and sections of subtopic with each research question.<sup>7</sup> This way of presentation could help to clarify the deals of author in case that the content and structure would be sophisticated or unclear with difficulties to follow.

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<sup>7</sup> The author in this case presents one overarching question and six sub-questions. Most questions are What and how questions showing the trait of qualitative inquiry, for example, “How are concept maps particularly useful to urban students?”

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